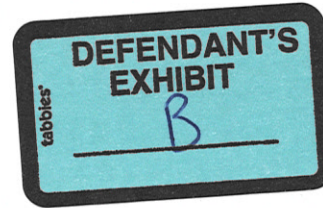


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Attorney for Defendants



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KEVIN MICHAEL BROPHY, JR.,
an individual,

Plaintiff,

v.

BELCALIS ALMANZAR,
aka Cardi B, an individual;
KRS GROUP, LLC, a New York
limited liability company;
WASHPOPPIN, INC., a New York
corporation; and DOES 1-20,
inclusive,

Defendants.

Case No. 8:17-cv-01885-CJC-JPR

Hon. Cormac J. Carney
U.S. District Judge

**DECLARATION OF ALAN G.
DOWLING IN SUPPORT OF EX
PARTE APPLICATION BY
DEFENDANTS TO CONTINUE
TRIAL AND PRETRIAL
CONFERENCE DATES, AND
RELATED DEADLINES**

Complaint filed: 10/26/17
Pre-Trial Conf.: 10/8/21
Trial Date: 10/26/21

I, ALAN G. DOWLING, declare:

1. I am an attorney duly licensed to practice before all courts of the State of California, duly admitted to practice before this Court, and counsel of record for Defendants Belcalis Almanzar aka Cardi B, KSR Group, LLC, and

1 Washpoppin, Inc. (the “Defendants”) in this action.

2 2. I submit this Declaration in support of the ex parte application by
3 Defendants for a continuance of the trial and pretrial conference dates, and related
4 deadlines, set forth in the Court’s Order (Docket No. 140) dated September 8,
5 2021. I know all matters of fact set forth herein to be true of my own personal
6 knowledge, except those stated upon information and belief, and I believe those
7 to be true. If called as a witness, I could and would testify competently hereto.

8 3. On August 20, 2021, pursuant to prior order of the Court, the parties
9 conducted a court-ordered settlement conference (via Zoom) before Magistrate
10 Judge Rosenbluth. Although settlement was unable to be reached at that time, the
11 parties and Magistrate Judge Rosenbluth concurred at the end of that day that the
12 conference had been productive and should be continued to the earliest date
13 available to the Court, all counsel and the parties. Over the following several
14 days, it was determined that the earliest available date was October 15, 2021.
15 (Magistrate Judge Rosenbluth was aware that Ms. Almanzar was in the final
16 weeks of her pregnancy.)

17 4. On Friday, September 3, 2021, Magistrate Judge Rosenbluth issued
18 her Scheduling Notice (Docket No. 139) setting that October 15 date for the
19 resumption of the settlement conference and ordered additional related deadlines
20 prior thereto.

21 5. On September 8, 2021, immediately after the Labor Day holiday
22 weekend, this Court issued its Order setting the following dates and deadlines in
23 this case:

24 --Jury trial in this matter is to commence on October 26, 2021, at 8:30
25 a.m., in the courtroom of Judge Cormac J. Carney, located at the Ronald
26 Reagan Federal Building and United States Courthouse, 411 West Fourth
27
28

1 Street, Courtroom 9 B, Santa Ana, CA, 92701-4516. The jury trial is
2 presently estimated to take approximately a week.

3 -- The Pretrial Conference is to take place on October 8, 2021, at 10:00
4 a.m., at the same location.

5 --All pretrial documents— including the joint statement of the case,
6 witness lists, jury instructions and verdict forms, among other things—
7 are to be filed no later than October 1, 2021.

8 --Any motions in limine are to be filed by September 20, 2021. Any
9 oppositions to them are to be filed by September 27, 2021. Any replies in
10 support of motions in limine are to be filed by October 4, 2021.

11 Unfortunately, the Court did not communicate with the parties or their counsel prior
12 to issuing the Order of September 8, 2021, to ascertain if there would be any calendar
13 conflicts or other problems with the proposed dates, or the matters raised in this ex
14 parte application could have been brought to the Court's attention at that time. We
15 also assume that the Court was unaware (despite widespread publicity) of Ms.
16 Almanzar's having given birth to her son over the Labor Day holiday weekend, four
17 days before the Order was issued.

18
19 6. After having exchanged informal preliminary lists of witnesses and
20 exhibits, in mid-September 2020, faced with imminent pretrial deadlines, the parties
21 filed memoranda of contentions of fact and law, but did so at a time when the Court
22 had not yet considered and ruled upon the Defendants' Motion in Limine No. 1
23 (which was later granted) to exclude testimony and evidence from Plaintiff's
24 designated expert witness, Doug Bania. Three days after the memoranda of
25 contentions were filed, the Court vacated the pretrial conference and trial dates then
26 in effect. Consequently, preparation for pretrial proceedings was suspended and the
27 parties have not yet undertaken preparation of a joint pretrial conference order,
28 preparation of joint (and disputed) jury instructions and proposed verdict forms, and

1 no final joint witness and exhibit lists have been prepared (taking into account the
2 Court's rulings since mid-2020). Defendants also anticipate making multiple
3 motions in limine which they believe will directly impact the conduct of the trial,
4 and possibly substantially shorten its duration.

5 7. On September 10 and 13, 2021, I communicated with Plaintiff's
6 counsel Lawrence Conlan by email and informed him of this ex parte application
7 in accordance with Local Rule 7-19. (See emails attached hereto collectively as
8 Exh. 1, incorporated herein by reference). It appears from Mr. Conlan's
9 correspondence that Plaintiff will oppose (i.e., does not overtly consent to) this ex
10 parte application, though the only specific reasons articulated in such
11 correspondence addressed only two ancillary issues, that is, (1) Plaintiff
12 apparently believes that maintaining the October trial date would encourage
13 settlement of this case sooner, and (2) Plaintiff, apparently ignoring the facts
14 relating to the recent birth of her child, asserts that it would not be unfair to have
15 Ms. Almanzar subjected to a trial in Atlanta, GA, less than a week after the
16 conclusion of the trial presently scheduled in this case in Santa Ana, CA.

17 Mr. Conlan's contact information is as follows:

18 Lawrence J. Conlan

19 **CAPPELLO & NOËL LLP**

20 831 State Street

21 Santa Barbara, CA 93101-3227

22 Telephone: (805)564-2444

23 Facsimile: (805)965-5950

24 Email: lconlan@cappellonoel.com

25 ///

1 Executed at Santa Monica, California, on September 13, 2021.

2 I declare under penalty of perjury under the laws of the United States of
3 America and the State of California that the foregoing is true and correct.

4
5 /s/ Alan G. Dowling
6 ALAN G. DOWLING
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